

Name of the thesis

Surrogate motherhood *de lege ferenda*

Abstract

The thesis deals with the issues surrounding surrogate motherhood. With the first chapter outlining the terms connected with the topic and describing the possible ways parents can find a surrogate mother.

The second chapter explores the methods of artificial insemination.

The third chapter analyses current legal regulation of surrogate motherhood in the Czech Republic. Including the evaluation of *mater sempter certa est* principle and section § 804 of Civil Code, the only section, which explicitly mentions surrogate motherhood. The chapter further explores surrogacy contracts and the decision number I. US 3226/16 of the Constitutional Court of the Czech Republic, with an analysis of supporting and opposing arguments with regards to the decision.

Chapter four looks into the foreign laws surrounding surrogacy. It reviews not only the variety of state regulation, where surrogacy is legal and accepted, such that of the United States, Ukraine and India, but also regulation that prohibits surrogacy, such as Germany. The topic of surrogacy tourism and the legal uncertainty which this causes is also examined. For instance, the citizenship issues that may arise for a newborn child.

Chapter five recounts the opinion of the European Court of Human Rights on surrogacy. The legal judgements are described through key decisions like the *Mennesson v France* and *Labassee v France*. In addition to other cases, in which the European Court of Human Rights highlighted the importance of protection of right for family life and the best interests of the child as leading factors for courts when deciding cases considering surrogate motherhood. The chapter also notes the first advisory opinion of European Court of Human Rights considering surrogacy.

The final chapter concludes the points surrounding surrogate motherhood *de lege ferenda*. It evaluates the legal definition of a surrogate mother and the intended parents, while also setting out the conditions under which it is possible to establish a contract. The governance of parenthood to the child is looked into. In addition to the issues regarding reimbursement of maternity, birth costs and the monetary reward for the surrogate mother. As a final point, the chapter highlights the role of the courts as a moderator and authority overseeing the legality of the process. It is the aim of this thesis to identify the most suitable set of regulation for surrogate motherhood that could be implemented into the Czech legal system.